

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

WINETTA ELSEE WELLS,	:	
Plaintiff	:	CIVIL ACTION NO. 3:20-2426
v.	:	(JUDGE MANNION)
ANDREW SAUL, <u>et al.</u>,	:	
Defendants	:	

ORDER

Pending before the court is the report of Magistrate Judge Susan E. Schwab, which recommends that the plaintiff's complaint (Doc. 1) be dismissed without prejudice. (Doc. 7). The plaintiff has not filed objections to the report and recommendation.

Where no objection is made to a report and recommendation, the court should, as a matter of good practice, "satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Fed. R. Civ. P. 72(b), advisory committee notes; see also Univac Dental Co. v. Dentsply Intern., Inc., 702 F.Supp.2d 465, 469 (M.D.Pa. 2010) (citing Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every report and recommendation)). Nevertheless, whether timely objections are made or not, the district court

may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. §636(b)(1); Local Rule 72.31.

By way of relevant background, the plaintiff filed the instant action, *pro se*, on December 28, 2020. (Doc. 1). Judge Schwab issued an order on February 2, 2021, advising the plaintiff of her obligation to serve the summons and complaint on defendants or to obtain waivers of service in accordance with Fed.R.Civ.P.4. (Doc. 5). The plaintiff was given 90 days to complete service or obtain waivers and to file a return of service with the court. By order dated May 11, 2021, Judge Schwab noted that more than 90 days had passed and the plaintiff failed to file a return of service as directed. (Doc. 6). Moreover, there was no indication that the plaintiff had served the defendants or obtained waivers of service. The plaintiff was directed to show cause, on or before June 11, 2021, why the instant action should not be dismissed without prejudice pursuant to Fed.R.Civ.P. 4(m). The plaintiff was advised if she failed to respond to the order to show cause, it would be recommended that her case be dismissed. As of the date of the instant report, the plaintiff failed to respond to the show cause order or request an extension of time to do so. As such, Judge Schwab recommends that the plaintiff's complaint be dismissed without prejudice.

Upon review of Judge Schwab's report and recommendation, the court finds no clear error of record. Moreover, the court agrees with the sound reasoning which led Judge Schwab to her conclusions. As such, the court will adopt the report and recommendation in its entirety.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

(1) The report and recommendation of Judge Schwab (**Doc. 7**) is **ADOPTED IN ITS ENTIRETY** as the decision of the court.

(2) The plaintiff's complaint (**Doc. 1**) is **DISMISSED WITHOUT PREJUDICE**.

(3) The Clerk of Court is directed to **CLOSE THIS CASE**.

s/ Malachy E. Mannion

MALACHY E. MANNION

United States District Judge

DATE: July 16, 2021

20-2426-01